

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6331 of 1984

Date of decision: 5-3-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MUNICIPAL CORPORATION OF A'BAD

Versus

KHODABHAI BHURABHAI  
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Appearance:

MR D. V. Mehta for Petitioner  
None present for Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/03/97

ORAL JUDGEMENT

The petitioner - Municipal Corporation of the City of Ahmedabad - by this special civil application, is questioning the validity and correctness of the judgment and award dated 19th August, 1984 of the Labour Court, Ahmedabad, in Recovery Application No.111 of 1979. The respondent filed application under section 33C(2) of the Industrial Disputes Act, 1947 claiming Rs.43,800/towards overtime for the period 3-3-1975 to 25-12-1979.

2. The contention of the counsel for the petitioner is that under section 33C(2) of the I.D. Act, the Labour Court could not have computed the amount of overtime wages as prayed for by the respondents. In support of this contention the counsel for the petitioner has placed reliance on the decision of the apex court in the case of Municipal Corporation of Delhi vs. Ganesh Razak and another, reported in (1995) 1 SCC 235. This court had occasion to consider the same point earlier in many of cases filed by the Municipal Corporation of the City of Ahmedabad, and relying on the decision of the apex court in the case of Municipal Corporation of Delhi (supra) has taken the view that the Labour Court has no jurisdiction to compute the claim of overtime under section 33C(2) of the I.D. Act, 1947. The proceedings under section 33C(2) of the Act are in the nature of execution proceedings and computation can only be made of the claim which flows from either some existing claim or some award made the settlement, which is not the case here. The respondent has to establish the fact that he was worked overtime and only on adjudication of that question computation of the amount could have arisen. That could have been permissible only by way of raising industrial dispute, and not by way of claim application under section 33C(2) of the Act.

3. In the result this special civil application succeeds and the same is allowed. Order of the Labour Court, Ahmedabad, dated 19-8-1982 made in Recovery Application No.111 of 1979 is quashed and set aside. Rule made absolute. No order as to costs.

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